

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Sears Logistics Services, Inc.

Plaintiff,

Case No. 2:14-cv-999

v.

Judge Watson

Phoenix Warehouse,

Magistrate Judge Kemp

Defendant.

PHOENIX WAREHOUSE'S RESPONSE TO DOC # 30.

Now comes Phoenix Warehouse ("Phoenix"), and hereby responds to Doc #30 filed by Plaintiff seeking leave to substitute Plaintiff.

Phoenix deferred responding to Plaintiff's request for consent to the motion because the background for the request made by Plaintiff indicated that Plaintiff's complaint was misnomered, whereas a request for consent to a motion to substitute suggested the existence of two discrete parties. As such, Phoenix indicated that it could not make a determination regarding consent.

Upon review of the representations within Doc #30, it remains Phoenix's belief that the proper vehicle to address Plaintiff's misnomer is a motion to amend, as opposed to substituting a party (given it is the same party with a new name). Phoenix would not oppose such a motion to amend or the Court's *sua sponte* order amending the name of the Plaintiff.

Respectfully submitted,

/s/ Ed Hubbard

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Trial Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing was duly served via ECF on this 2nd day of October, 2015, upon the following:

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